

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

ALBERT BUSTILLOS,

Plaintiff,

v.

No.

**THE CITY OF ARTESIA and OFFICER
DAVID BAILEY,**

Defendants.

NOTICE OF REMOVAL

COME NOW Defendants The City of Artesia and Officer David Bailey (“Removing Defendants”), by and through their attorneys of record, Atwood, Malone, Turner & Sabin, P.A., by Bryan Evans and K. Renee Gantert, and hereby remove this Cause from the District Court of Eddy County, Fifth Judicial District Court, State of New Mexico, to the United States District Court for the District of New Mexico, on the grounds that Plaintiff’s Complaint for the Violations of Civil Rights creates federal question jurisdiction. In support of this removal, Removing Defendants state:

1. On September 11, 2020, a civil action bearing Cause No. D-503-CV-2020-00631 with the same case style as shown herein, was filed in the District Court of Eddy County, Fifth Judicial District, State of New Mexico.

2. The action stated in Plaintiff’s Complaint is a civil action for which the United States District Court has original jurisdiction, due to the federal cause of action asserted

therein. 28 U.S.C. §1331.

3. This Court has jurisdiction over Plaintiff's cause of action pursuant to 28 U.S.C. §1441(b), which makes removable any civil action for which the district courts have original jurisdiction founded on a claim or right arising under the laws of the United States.

4. Defendant City of Artesia was served on September 15, 2020. Defendant Officer David Bailey was served on September 14, 2020. Therefore, this Notice of Removal is timely filed, as it is within 30 days of Plaintiff's service of a pleading upon a defendant which purports to assert relief under federal law, as set forth in paragraph 2 above, and is timely filed pursuant to the terms of 28 U.S.C. §1446(b).

5. The time in which Removing Defendants are required to answer Plaintiff's Complaint by the laws of the State of New Mexico has not yet expired.

6. Removing Defendants are represented by Bryan Evans and K. Renee Gantert of Atwood, Malone, Turner & Sabin, P.A. of Roswell, New Mexico.

7. Venue is properly placed in the United States District Court for the District of New Mexico because it is the district court for the district within which the action is pending, in accordance with 28 U.S.C. §1446(a).

8. A copy of the Complaint for the Violations of Civil Rights is attached hereto as Exhibit "A".

9. Removing Defendants shall promptly file a copy of this Notice of Removal with the Clerk of the District Court of Eddy County, Fifth Judicial District, State of New Mexico, thereby effecting removal as provided in 28 U.S.C. §1446(d).

WHEREFORE, Removing Defendants pray that Cause No. D-503-CV-2020-00631, currently pending in the District Court of Eddy County, Fifth Judicial District, State of New Mexico, be removed into this Court for trial and determination as provided by law.

Respectfully submitted,

ATWOOD, MALONE, TURNER & SABIN, P.A.

By **Electronically Filed on 10/14/20**

Bryan Evans
K. Renee Gantert
P.O. Drawer 700
Roswell, NM 88202-0700
(575) 622-6221

Attorneys for Defendants

I HEREBY CERTIFY that on October 14, 2020, I filed the foregoing instrument electronically through the CM/ECF system, which caused all parties of record to be served by electronic means, as more fully reflected on the *Notice of Electronic Filing* and I also e-mailed the foregoing instrument to all parties of record.

Electronically Filed on 10/14/20

Bryan Evans